

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 6021

BILL NUMBER: HB 1116

NOTE PREPARED: Sep 17, 2010

BILL AMENDED:

SUBJECT: Collection of DNA evidence.

FIRST AUTHOR: Rep. Pond

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: **GENERAL**
 X DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

- A. It requires all persons arrested for a felony after June 30, 2011, to submit a DNA sample.
- B. It provides for the expungement of a DNA sample taken from a person arrested for a felony if: (1) the person is acquitted of all charges; (2) the person's conviction is reversed; or (3) the case is dismissed.
- C. It makes technical corrections and conforming amendments.

Effective Date: July 1, 2011.

Explanation of State Expenditures: *Summary- DNA Sampling:* Current law requires offenders *convicted* of a felony after June 30, 2005, to provide a DNA sample to the Department of Correction (DOC), the county sheriff, or the agency supervising the individual. This bill requires any person *arrested* for committing any felony after June 30, 2011, to provide a DNA sample. Depending on whether the new samples are analyzed by the Indiana State Police (ISP) or a vendor, LSA estimates the following additional expenditures for ISP for FY 2011 through FY 2014.

New Expenditures (in \$M) for Processing DNA Samples from All Felony Arrests				
	<u>FY 2011</u>	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>
Outsourcing Expense	\$1.77	\$1.77	\$1.77	\$1.77
In-house Expense	\$1.08	\$0.85	\$0.85	\$0.85

Expungement: Besides the costs for collection and analysis, the cost to expunge the record of DNA samples of persons who were arrested and whose case was either acquitted or dismissed would likely increase. As proposed, an individual may request expungement if the person was acquitted of all charges, the conviction on which the authority for inclusion is based has been reversed, or the case dismissed.

LSA examined the percentage of all felony cases that were filed in criminal court between 2004 and 2008 and later dismissed and acquittal rates published by the Bureau of Justice Statistics for felony cases in the 75 most populous counties in the United States. LSA estimates that 20% of all arrests will be either dismissed or acquitted. The total number of DNA samples that would need to be expunged could be 28 or less each day.

Annual Number of New DNA Arrestee Samples Expunged									
	New Arrests		Percent of Cases Expunged		New Arrestee Samples Expunged		Working Days Per Year		Expungements Per Day
Low	23,250	x	20%	=	4,650	÷	250	=	19
High	34,875	x	20%	=	6,975	÷	250	=	28

Effect on the Department of Correction: DOC currently collects DNA samples of first-time offenders when they are committed to DOC facilities. Men are committed to the Reception Diagnostic Center, while women are committed to the Rockville Correctional Facility Intake Unit. Since DNA samples will now be collected at the time of a felony arrest, this bill would reduce the responsibilities for staff at these two facilities.

Background Information: Estimating the Added Samples: LSA used the average number of DNA samples that ISP received and processed between CY 2006 and CY 2010 to project the new samples that would need to be typed and processed. LSA used both DNA samples received and processed to determine these added costs.

DNA Samples Received and Processed by Calendar Year					
DNA Samples That Are:	2007	2008	2009	2010 (estimated)	Average
Received	39,736	35,342	32,644	33,696	35,355
Processed	29,783	22,475	20,509	20,232	23,250

At LSA's request, the Indiana State Police surveyed nine states that have added DNA arrestee language to their statutes since 2003. Three of these states, North Dakota, South Dakota, and California, now require any person arrested for any felony to submit a DNA specimen. Based on their experience and on the reported felony filings in the 2008 *Indiana Judicial Report*, LSA projects that the number of DNA samples that the ISP will receive and be required to process will increase between 100% and 150%.

Based on the four-year average shown in the previous table, the following table shows projections of these added samples.

<i>New</i> DNA Samples to be Received and Processed			
		Percentage Increase in Samples	
DNA Samples That Are:	Four-Year Average	100%	150%
Received	35,355	35,355	53,033
Processed	23,250	23,250	34,875

Estimating the Added Costs: Under current practice, ISP receives DNA samples from both county jails and DOC facilities. The felony offenders who are in county jails will be either placed on probation or in community corrections programs. ISP currently contracts with Strand Analytics to supply the sample kit and transport the sample for analysis from the jails. The State Police work with the staff at DOC's intake units to obtain the samples for processing.

ISP can collect and analyze this new set of arrestee samples in-house or by outsourcing. There are three cost components involved in DNA analysis. The following table estimates what these added costs would be under both options.

Cost Components			
<u>Component</u>	<u>Comments:</u>	<u>In-House</u>	<u>Outsourced</u>
Specimen Kits and Shipping	Kits are used to collect specimens from all persons arrested and shipped to laboratory	\$6	\$15
Analysis	At the laboratory, staff examine and discard duplicates, and analyze and type new specimens	\$20	\$29
One-Time Start-up Costs	ISP would need new equipment to analyze added specimens	\$230,000	

The following table presents the costs to collect, ship, and analyze these added samples if the work is performed by the Indiana State Police.

Cost Range for Processing New Samples for Persons Who Are Arrested in First Year If All Work Is Performed In-House										
Range	DNA Samples Received		DNA Kits and Shipping		Samples Processed		Analysis		First Year Start-up Costs for New Instruments	Cost In Millions
Low	35,355	x	\$6.00	+	23,250	x	\$20.00	+	\$230,000	\$0.91
High	53,033	x	\$6.00	+	34,875	x	\$20.00	+	\$230,000	\$1.25

The following table presents the costs to collect, ship, and analyze these added samples if the work is performed by a vendor.

Cost Range for Processing New Samples for Persons Who Are Arrested in First Year If All Work Is Outsourced										
Range	DNA Samples Collected		DNA Kits and Shipping		Samples Processed		Analysis			Cost In Millions
Low	35,731	x	\$20.00	+	24,177	x	\$29.00	=		\$1.42
High	53,597	x	\$20.00	+	36,266	x	\$29.00	=		\$2.12

Explanation of State Revenues:

Explanation of Local Expenditures: *Added Collection Costs for County Sheriffs* – County sheriffs collecting the samples would incur additional costs to train staff in collecting samples and ensuring that the chain of evidence is not broken. Sheriff staff collect saliva from an arrested person by placing a cotton swab in the arrested person’s mouth.

Explanation of Local Revenues:

State Agencies Affected: ISP; DOC.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Kristine Crouch, CODIS Administrator, ISP; *Indiana Judicial Report, 2008*.

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